

Permit No. 15-4145-15

Project No. 0264-122-108 B602, B603, B604, B605, B616, C508, D604, D605, P107, R204

A. FEDERAL

Corps of Engineers:

Alice will provide comments. 09/08/2015.

This project is currently under review by our office. The project manager is Alice Allen-Grimes. The proposed activity will be an Individual Permit. 10/07/2015

Fish and Wildlife Service:

Not Present 09/08/2015.

No Comment. 10/07/2015.

Environmental Protection Agency:

Not Present 09/08/2015.

US Coast Guard:

Not Present 09/08/2015.

No Comment. 10/07/2015.

Tennessee Valley Authority:

Not Present 09/08/2015.

No Comment. 10/07/2015.

National Marine Fisheries Service:

Not in a position to make comments. Need to look at site. Channel improvements are for stormwater. 09/08/2015.

No additional comment. 10/15/2015.

B. STATE

Department of Environmental Quality (Air):

Open Burning (9vac 5-40-5600 et seq.); Fugitive dust & emission control (9 VAC 5-50-60 et seq.); Restrict emissions of volatile organic compounds (VOC) and oxides of nitrogen (NOX) 08/27/2015.

No additional comment. 10/15/2015.

Department of Environmental Quality (Water):

Look at capacity of culverts for stormwater. Copy of powerpoint. Believes this is a stream, not open water. Not convinced that aquatic resource benefit. Not convinced that alternatives analysis is complete provide final with thorough analysis of all options. Relocation through upland forest does not take this off the table. Application incomplete without compensation. 9/08/2015.

The application is currently incomplete due to an insufficient purpose and need, alternatives analysis and compensation plan. HCS 10/13/2015

Department of Environmental Quality (Waste):

Soil, Sediment, and Waste Management

Any soil that is suspected of contamination or wastes that are generated must be tested and disposed of in accordance with applicable Federal, State, and local laws and regulations. Some of the applicable state laws and regulations are: Virginia Waste Management Act, Code of Virginia Section 10.1-1400 et seq.; Virginia Hazardous Waste Management Regulations (VHWMR) (9VAC 20-60); Virginia Solid Waste Management Regulations (VSWMR) (9VAC 20-81); Virginia Regulations for the Transportation of Hazardous Materials (9VAC 20-110). Some of the applicable Federal laws and regulations are: the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 et seq., and the applicable regulations contained in Title 40 of the Code of Federal Regulations; and the U.S. Department of Transportation Rules for Transportation of Hazardous materials, 49 CFR Part 107.

Asbestos and/or Lead-based Paint

All structures being demolished/renovated/ removed should be checked for asbestos-containing materials (ACM) and lead-based paint (LBP) prior to demolition. If ACM or LBP are found, in addition to the federal waste-related regulations mentioned above, State regulations 9VAC 20-81-620 for ACM and 9VAC 20-60-261 for LBP must be followed. Questions may be directed to Mr. Jason Miller at the Piedmont Regional Office (804-527-5028), or to the Division of Land Protection and Revitalization inspector at the nearest regional office (see <http://www.deq.virginia.gov/Locations.aspx>).

Pollution Prevention – Reuse - Recycling

Please note that DEQ encourages all construction Permits and facilities to implement pollution prevention principles, including the reduction, reuse, and recycling of all solid wastes generated. All generation of hazardous wastes should be minimized and handled appropriately. 08/27/2015.

No additional comments. 10/07/2015.

Department of Environmental Quality (Stormwater Management):

Not Present 09/08/2015.

No Comment. 10/07/2015.

Department of Conservation and Recreation (Parks and Rec):

“We do not anticipate that these projects will have any adverse impacts on existing or planned recreational facilities. Nor will they impact any streams on the National Park Service’s Nationwide Rivers Inventory, designated or potential Virginia Scenic Rivers or existing or potential Virginia Byways. Please contact DCR for an update on this information if a significant amount of time passes before it is utilized.” 08/31/2015.

No additional comments. 10/07/2015.

Department of Conservation and Recreation (Natural Heritage):

Yellow crowned night heron likely roosts in area during breeding season. Requests 1 day survey. Avoid impacts to upland forests as much as possible. Provide invasive species abatement plan. 09/08/2015.

According to the information currently in our files, the Whitehurst Landing-Avalon Terrace Conservation Site is within two miles of the project area. Conservation sites are tools for representing key areas of the landscape that warrant further review for possible conservation action because of the natural heritage resources and habitat they support. Conservation sites are polygons built around one or more rare plant, animal, or natural community designed to include the element and, where possible, its associated habitat, and buffer or other adjacent land thought necessary for the element’s conservation. Conservation sites are given a biodiversity significance ranking based on the rarity, quality, and number of element occurrences they contain; on a scale of 1-5, 1 being most significant. The Whitehurst Landing-Avalon Terrace Conservation Site has been given a biodiversity significance ranking of B5, which represents a site of general significance. The natural heritage resource of concern at this site is:

Nyctanassa violacea Yellow-crowned Night-heron G5/S2S3B,S3N/NL/NL

Yellow-crowned Night-herons breed from central and southeastern United States to northern and eastern coastal areas of South America (Watts, 1991). In Virginia, it breeds primarily within the coastal plain, however, there are scattered breeding records across the state, always associated with wetland areas. It forages in marshes, swamps, lakes, lagoons, tidal mud flats, rocky shores, and mangrove swamps (Watts, 1991). Threats to this species in Virginia include loss of foraging habitat due to development, the displacement of remnant urban breeding populations, and disturbance of breeding activities (Watts, 1991).

Due to the potential for the project area to support occurrences of the Yellow-crowned Night –heron, DCR recommends a one day survey be conducted during the breeding season of April-July. With the survey results we can more accurately evaluate potential impacts to natural heritage resources and offer specific protection recommendations for minimizing impacts to the documented resources.

As indicated in Table 1 of the project submittal, Phragmites has been documented in the project area. Ground disturbance in wetlands of the eastern United States can often lead to the establishment of Phragmites (common reed), an exotic, invasive weed species. Phragmites literally crowds out other plant species due to its rapidly

spreading rhizomes and, once established, prevents sunlight from reaching understory species. Thus, through interspecific competition, Phragmites threatens the native plant community and reduces plant diversity. Phragmites within the project area should be eradicated. Appropriate control measures vary but typically incorporate treatment with either imazapyr or glyphosate based herbicides approved for wetlands. DCR also recommends that de-vegetated areas during construction be seeded with rapidly growing annuals as soon as possible. In subsequent growing seasons, the original species composition should return, drawing on the local seed bed. During the time before the original species composition is fully re established, the disturbed area should be monitored for colonization by Phragmites. DCR recommends that disturbed areas be inspected twice during each growing season for a period of not less than five years. Site inspections should take place in June (when new shoots are detectable) and again in mid to late September (when fruiting plumes are visible). 10/07/2015

Department of Conservation and Recreation (Floodplains):

The project is along the edges of SFHAs w/ AE 7.6 and shaded X zones. The project needs to comply with the City of Norfolk's floodplain management ordinance. 08/31/2015.

No additional comments. 10/07/2015.

Department of Health:

Not Present 09/08/2015.

No Comment. 10/07/2015.

Department of Historic Resources:

Not Present 09/08/2015.

No Comment. 10/07/2015.

Virginia Institute of Marine Science:

Not Present 09/08/2015.

No Comment. 10/07/2015.

Department of Game and Inland Fisheries:

September 2015 IACM, presented. We recommend staging all work from the existing road/top of bank, avoiding instream work to the extent practicable (no machines instream), strict adherence to our standard recommendations for instream work, measures to ensure concrete and debris are disposed of at a suitable upland site, strict adherence to E&S controls. DGIF is working with USFWS to develop protective guidance for bat species that are federally & state listed. In the interim, we recommend coordinating with the USFWS for guidance pertaining to federally listed bats & protective recommendations. Please include DGIF on all VDOT correspondence with USFWS pertaining to listed bats. 09/08/2015.

No additional comment. 10/15/2015.

Virginia Marine Resources Commission:

Comments were provided earlier at a meeting held at the Norfolk Residency. If the Corps requires an individual permit, a JPA must be submitted to VMRC.

Will send written comments. 09/08/2015.

"Regardless of the final alternative selected, the Commission's jurisdiction over this project is limited to those project components which encroach channelward of mean low water (MLW) in the unnamed tidal tributary and/or into the Eastern Branch Elizabeth River. This represents the approximate 50 linear foot scour area, proposed to dredged to minus three feet at MLW, situated immediately upstream of the downstream-most culvert and any proposed storm water outfalls at or below this area. All proposed impacts to tidal wetlands are statutorily authorized under the governmental activity section of the Virginia Wetlands Act.

VMRC previously commented on the natural stream channel design alternative that was outlined by VDOT in our onsite meeting this summer and in the follow up meeting held at the Norfolk Residency office. At that time, VMRC noted that if the natural channel design did reduce sedimentation and allow for a persistent MLW channel upstream of the subject culvert, the approximate 2200 linear feet of "restored channel" would serve as potential habitat and nursery area (safe haven) for juvenile finfishes, crabs and certain other marine organisms. Additionally, the use of stormwater bmp's that can reduce/eliminate sediment inputs and trash (plastics, etc.) into the Eastern Branch Elizabeth River was strongly encouraged.

VDOT has since selected and presented at the September IACM meeting an alternative that pipes, via a series

of box culverts, a majority of the unnamed tributary. While the majority of this work occurs in an area not jurisdictional to VMRC, we concur with DEQ's preliminary position that questions if this design consideration represents the least damaging environmental and most practical alternative.

Lastly, should this project require an individual permit from the Corps of Engineers, please be advised that it will no longer qualify for our VGP-1. Instead, VDOT will need to file a Joint Permit Application and receive a permit from the Marine Resources Commission to encroach over any State-owned submerged lands impacted by the project.

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No additional comment. 10/15/2015.

VDOT Response:

The agencies have requested a comprehensive discussion of purpose and need. Based on the assumption that the forthcoming PN will be satisfactory, agencies requested a thorough alternative analysis and avoidance and minimization discussion. Once these are acceptable, HR environmental may present the project at a special IACM session. DTD